



HUMAN SERVICES COMMITTEE

Public Hearing

March 3, 2016

Written testimony of State Ombudsman, Nancy Shaffer

Good afternoon Senator Moore and Representative Abercrombie, Senator Markley Representative Wood and esteemed members of the Human Services Committee. My name is Nancy Shaffer and I am the Connecticut State Long-Term Care Ombudsman. Per the Older American's Act and CT General Statutes 17a-405-422 inclusive, it is the duty of the State Ombudsman to provide services to protect the health safety, welfare and rights of individuals who reside in skilled nursing facilities, residential care homes and managed residential communities/assisted living facilities. The Ombudsman Program serves approximately 30,000 residents in the state of Connecticut who reside in one of these facilities for either a short or long-term stay. It is our responsibility, as Long-Term Care Ombudsmen to respond to concerns of residents and their families about their care and services and to resolve their complaints at the facility level and to the resident's satisfaction.

S.B. No. 278 (RAISED) AN ACT CONCERNING NURSING HOME FACILITY MINIMUM STAFFING LEVELS.

The Long-Term Care Ombudsman Program and the residents of Connecticut's skilled nursing facilities appreciate that this Committee has raised a minimum staffing bill once again. This issue has come before the legislature many times over the years. And for good reason: Connecticut remains on record as being one of the worst states in the country for its minimum staffing standards of 1.9 Hours per Resident per Day (HPRPD). The national average is 2.48 HPRPD. At a time when acuity is on the rise in nursing homes and a decades-long stagnant staffing standard is in place, residents are put at risk for numerous bad outcomes, including pressure ulcers, infections, malnutrition, dehydration and injuries from falls. The Office of Fiscal Analysis did a cost analysis a few years ago and when asked to relook at this, did not believe there would likely be minimal difference from the original analysis the year or two before. Per OFA it was determined there would be little to no cost to the state if the Hours per Resident per Day was raised to 2.7 HPRPD in Connecticut. Since OFA's analysis showed that



most homes in Connecticut already staff at 2.3, raising the minimum should not have a fiscal impact on providers either. In 2000, the CT General Assembly commissioned the Office of

Program Review and Investigations to do a nursing home staffing study and made the recommendation to raise staffing level requirements to 2.36 HPRPD in 2001 and to 2.75 HPRPD in 2002. The proposal before you raises the HPRD to 2.3. This is still below the Office of Program Review and Investigations recommendation from sixteen years ago.

Our dear friend, Brian Capshaw, spoke articulately from the perspective of a nursing home resident. His observations continue to resonate. When Brian testified before this committee two years ago he noted that his nursing home was staffing at 2.9, but even at that level he stated that residents were not always allowed the choice of when they got up in the morning or when they would go to bed at night. This alone puts residents at risk for bed sores, a decline in mobility, and potential falls and injuries if they try to get out of bed without assistance. There is also the danger of social isolation and depression. Just this week, I had the opportunity to observe a group of residents in a reminiscence activity. One gentleman went a bit off topic and stated to his fellow residents "there are not enough staff to do the job, some people aren't getting out of bed until 11 am." And he said, "the upper echelon" needs to do something about this. WE need to do something about this for the sake of those who depend on us to ensure their quality of care.

Attached to this proposal is language related to increasing the minimum number of qualified social workers in nursing homes. The Ombudsman Program truly supports this concept. We know that individuals are living longer, that the acuity is greater in nursing homes than ever before and that residents and families are under more stress. All of this speaks to the need for more social services support. While the improved staffing measures likely do not carry a fiscal note for the majority of Connecticut nursing homes, I am fearful that the nursing home providers will see improved social worker staffing as a greater cost to their doing business. In many ways, however it would likely be a "win" for nursing homes as these resources are well-spent on providing a better psychosocial environment for individuals and for the home as a whole.

S.B. No. 280 (RAISED) AN ACT CONCERNING THE LONG-TERM CARE OMBUDSMAN'S NOTICE TO NURSING HOME RESIDENTS.

There is a statutorily mandated process when a nursing home applies to the Department of Social Services to request closure. Per Connecticut General Statute 17b-352, a nursing home must first submit to DSS a "Letter of Intent" (LoI) which initiates the request for "Certificate of Need" application forms and instructions from the department regarding its intent to transfer,

add, expand, increase, terminate or decrease its business. When the Lol is sent to DSS it is also sent to the families and residents of the nursing home and to the Office of the Long-Term Care Ombudsman. The Lol presents the nursing home's perspective about its decline in business, the various interventions to improve its business model, attract more residents, and essentially to improve its profit margin but it has concluded it is no longer a viable business and must close. A typical Letter of Intent includes language similar to that used by a recent nursing home:

"The decision to close...comes after years of painstaking effort to revitalize the center's declining census...While the CoN (Certificate of Need) must be approved by DSS and may take up to ninety days, placement coordinators will be on staff to assist you and your loved ones with your options regarding alternate placement options. While you are not required to move at this time, our placement coordinators will be available to ensure a seamless transition should you choose to voluntarily transfer."

As you can imagine if you are a resident or family member who receives this letter you are devastated by the news and the accompanying uncertainty. The tone of the Letter of Intent certainly makes closure sound like a "done deal". The nursing home has become the resident's home. Other residents and their families as well as the staff who have cared for them have become extensions of their own families. Residents have built relationships which they depend upon. As one of my colleagues stated, what happens at this point is panic sets in. In the home cited above, by the time of the CoN hearing, a month after the Letter of Intent was delivered to residents and families, approximately 60% of the residents had discharged (and most to other skilled nursing facilities). This is simply wrong. In that short time period those residents and their families had minimal opportunity to consider their options and make informed choices about where they might move IF the home closed. While 60% decline in resident census in such a short time period is not the norm, it is very safe to say that discharges always begin immediately once that Letter of Intent is received. By the time of the CoN hearing, often the nursing home business is no longer viable due in fact to its depleted census.

S.B. No. 280 provides that a letter from the Office of the State Ombudsman and the State Department on Aging is included in the same envelope as the Lol. Receiving these two documents at the same time is important. Residents and families will receive a balanced message: the business is initiating a process to close the nursing home and the residents have rights and protections and need not make quick decisions about their living options. The state has a robust Money Follows the Person Program which can assess the resident's needs and determine if a plan of care and services in the community is an option for the resident. At a time when the State has committed to rebalancing where people receive their long-term services and supports it makes sense to give them the information and time to make their

choices. Some certainly may choose another nursing home while others may appreciate this as an opportunity to return to their communities. It is our duty to give them adequate time and information to protect that right to an informed decision.

Thank you for your attention to these important issues. I am happy to answer your questions.

Respectfully,

A handwritten signature in cursive script, appearing to read "Nancy Shaffer". The signature is written in black ink and is positioned above the typed name.

Nancy Shaffer, State Ombudsman